

HANDCUFFS

ON

SUCCESS

The Extreme School Discipline Crisis in Mississippi Public Schools



MISSISSIPPI COALITION
FOR THE PREVENTION OF SCHOOLHOUSE TO JAILHOUSE





Advancement Project
American Civil Liberties Union of Mississippi
Mississippi State Conference of the NAACP
Mississippi Coalition for the Prevention of Schoolhouse to Jailhouse

EXECUTIVE SUMMARY

Mississippi is mired in an extreme school discipline crisis. Across the state, public schools are hindering the success of children and youth by employing harsh and destructive disciplinary practices. These practices not only exclude students from the classroom thereby reducing learning opportunities, but even worse, Mississippi's children are being trapped in a pipeline to prison, too often for the most trivial misbehaviors. Whether it is a dress code violation, profane language, or a schoolyard scuffle, young people are being herded into juvenile detention centers and into the revolving door of the criminal justice system. Sadly, none of this is shocking. After all, the State's harsh approach to discipline still allows corporal punishment. In fact, as one of only 19 states left that permit the paddling of students in public schools, Mississippi has the highest percentage of students being beaten by educators.¹ Finally, Mississippi's track record is being exposed.

In October 2012, the United States Department of Justice filed suit against the city of Meridian, the County of Lauderdale, two youth court judges, the State of Mississippi, and two state agencies for operating a school-to-prison pipeline.² The complaint alleges that these actors are "engag[ing] in a pattern or practice of unlawful conduct through which they routinely and systematically arrest and incarcerate children, including for minor school rule infractions, without even the most basic procedural safeguards, and in violation of these children's constitutional rights."³ Among other disturbing facts, the complaint alleges that Meridian schools repeatedly respond to infractions such as "disrespect," "refusal to follow directions," and "profanity" by referring students to law enforcement. They also routinely suspend students on juvenile probation, resulting in their automatic incarceration, for such low-level behaviors as use of vulgar language, flatulence in class, and dress code infractions like having a shirt untucked.⁴

While the suit is the most recent event to sound the alarm, the school-to-prison pipeline is nothing new to Mississippi and it is certainly not unique to Meridian. In fact, it is a problem that has plagued Mississippi schools statewide for years. For well over a decade, heartbreaking stories of extreme discipline and the criminalization of young people have poured out of Mississippi public schools.

In 2000, what began with a few students playfully throwing peanuts at one another on a school bus ended in five Black male high school students being arrested for felony assault, which carries a maximum penalty of five years in prison. When one of the peanuts accidentally hit the white female bus driver, the bus driver immediately pulled over to call the police, who diverted the bus to the courthouse where the students were questioned.⁵ The Sheriff commented to one newspaper, "[T]his time it was peanuts, but if we don't get a handle on it, the next time it could be bodies."⁶

Around the same time, for one 4th grade Black girl, minor disrespectful behavior led to her being pushed out of her school entirely. After refusing to participate in a class assignment, she was suspended out-of-school for three days for "defiance of authority." Subsequently, she was given another three day out-of-school suspension for "defiance of authority" for humming and tapping her desk. The school then referred her to an alternative education program for "drug-related activity," when she wore one pant leg up, although there was no other indication of any involvement with drugs. When the alternative school would not accept her because it provided instruction for grades 5-12 only, the school district promoted her despite her failing grades, in order to get her out of the mainstream school.⁷

More recently, in 2009 in Southaven, DeSoto County, armed police officers responded to an argument between three students on a school bus by reportedly arresting a half dozen Black students, choking and tackling one Black female student, and threatening to shoot the other students on the bus between their eyes.⁸

In 2010, one Black mother in Holmes County reported opening her door one morning to a police officer on her doorstep. Over his shoulder, she could see her frightened five-year-old son locked in the back seat. Her child's crime: violating the dress code. Her son's school required solid black shoes, and despite her best efforts to cover them with a black marker, red and white symbols were still visible on her son's black shoes. When she followed up with her son's principal, he justified his actions by telling her that her son needed to be "taught a lesson."⁹

In 2010, in Jackson Public School District, until a lawsuit was filed, staff at one school regularly handcuffed students to metal railings in the school gymnasium and left them there for hours if they were caught not wearing a belt, among other minor infractions. For example, one 14-year-old boy was reportedly handcuffed to the railing when he wore a stocking cap to class, threw his papers on the ground, and refused to do his school work.¹⁰

In the last few years, in Meridian, a male student estimated that he went back and forth between school and the juvenile justice system thirty times. In 8th grade, he was put on probation by a youth court judge for getting into a fight. Since then, reportedly any infraction, even some as minor as being a few minutes late to class or wearing the wrong color socks in violation of the dress code, was counted as a violation of his probation and resulted in immediate suspension and incarceration in the local juvenile detention center.¹¹

These stories begin to provide a glimpse into the devastating reality of the students and families living in Mississippi's school-to-prison pipeline. Every year across the State, zero tolerance and other overly harsh school disciplinary policies and practices push tens of thousands of students out of school, criminalizing and incarcerating students for trivial misbehaviors and normal age-appropriate misconduct. And Mississippi's extreme school discipline crisis has broad-reaching effects: the harm it causes extends even beyond Mississippi's children and families, reaching out into its communities, to its teachers and law enforcement officials, and to the State at large.

This report discusses the ways in which these extreme and destructive approaches to school discipline not only have directly harmed students and families, but also have caused teachers, law enforcement officials, and community members to have their lives and careers made more difficult by these ineffective and counter-productive school discipline policies and practices. Furthermore, the entire state of Mississippi has suffered damage to its economic health and well-being. Given this, the State should eliminate its school-to-prison pipeline, and this report provides recommendations for how it should begin to do so.

THE FIRST SECTION OF THE REPORT PROVIDES A BRIEF BACKGROUND ON THE CURRENT STATE OF SCHOOL DISCIPLINE IN MISSISSIPPI.

In recent years, the law enforcement strategies that have fueled the mass incarceration crisis in the adult criminal justice system have been inappropriately echoed in the school discipline policies applied to Mississippi's students. In Lauderdale County, for example, the school district's handbook adopts a version of mandatory minimum sentencing by requiring in-school suspension, out-of-school suspension, or expulsion for many offenses, even some highly subjective behaviors like "insubordination."¹² In the Pascagoula School District, the district uses a "broken windows" strategy, a law enforcement strategy of aggressively policing traditionally ignored minor offenses with the intended purpose of preventing more serious crimes. For example the district's disciplinary policy allows for an immediate out-of-school suspension and/or recommendation for expulsion for "any action which is deemed disorderly conduct or misconduct," including misbehavior as minor as refusal to give a name.¹³

Mississippi schools arrest students and refer students to juvenile detention centers at high rates, and do so mostly for typical adolescent, non-violent behavior. For example, in one of Mississippi's largest school districts, Jackson Public Schools, only 4% of arrests on school grounds during the 2010-2011 school year were for behavior that actually posed a serious threat to students, staff, or the school.¹⁴ In fact, the most prevalent offense, accounting for about one-third of arrests on school grounds, was the vague and subjective offense of "disorderly conduct."¹⁵

Mississippi's Black students are hit the hardest by harsh discipline practices. Statewide, they are three times more likely to receive an out-of-school suspension than their White peers, with an even greater disparity in some school districts.¹⁶ In Lawrence County, for example, Black students are eight times more likely to receive an out-of-school suspension than White students.¹⁷

Mississippi students are also more likely to receive an out-of-school suspension than students in its neighboring states of Louisiana, Georgia, Alabama, Texas, or Arkansas.¹⁸ Among Mississippi's school districts, several have the dishonor of maintaining out-of-school suspension rates that are over nine times higher than the national average.¹⁹

THE SECOND SECTION OF THE REPORT EXAMINES HOW THESE HARSH SCHOOL DISCIPLINARY PRACTICES HAVE UNDERMINED THE WORK OF MISSISSIPPI EDUCATORS AND OVERALL PROGRESS IN THE STATE EDUCATION SYSTEM.

Despite the school reform efforts of Mississippi's educators and policymakers, the State's graduation rates remain among the lowest in the country. According to Education Week, Mississippi ranks 44 out of the 50 states for its graduation rate.²⁰ Mississippi's harsh disciplinary practices are likely undermining such efforts.

As discussed below, a growing body of research and decades of experience tell us that the overuse and misuse of harsh disciplinary consequences like out-of-school suspension, expulsion, and referrals to law enforcement inhibit student achievement. They result in massive amounts of lost learning time, and frequently trigger cycles of disengagement from school and an escalation of rule breaking.²¹ Simply put, there are no successful schools that suspend, expel, and refer large numbers of students to law enforcement.

Yet, there are no statewide prescribed standards for school discipline that ensure that the codes of student conduct in Mississippi's school districts meet basic standards of fairness and common sense. This lack of standards allows schools to use harsh and extreme punishments for minor infractions. Such harsh and extreme punishment works at cross-purposes with the State's school improvement efforts and educators' efforts to promote teaching and learning in healthy and productive ways. For example, East Jasper School District's middle school discipline policies state that a wide range of minor behaviors, such as "refusal to give name upon request" or "refusal to comply with grooming rules," can result in out-of-school suspension for a first offense and lead to expulsion after a third offense.²²

Furthermore, the harmful effect of harsh school disciplinary policies on the Mississippi education system is often exacerbated in schools with a police and/or security presence, where students are regularly arrested or referred to the juvenile justice system. As discussed below, research has shown that these dynamics prevent schools from being a safe haven for young people, leading to deepening student resentment and further deterioration of school climate.²³

THE THIRD SECTION OF THE REPORT DISCUSSES HOW MISGUIDED DISCIPLINARY MEASURES HARM LAW ENFORCEMENT PERSONNEL AND OVERALL PUBLIC HEALTH AND SAFETY.

Harsh disciplinary approaches work at cross-purposes with law enforcement efforts to enforce laws and prevent crime because it puts young people at home without adult supervision; increases the likelihood that they will engage in future misbehavior; increases the likelihood that students will drop out of school; and increases the risk that they will be funneled into the justice system.²⁴

Students' negative or traumatic experiences with police officers in school also result in increased antagonism and resentment toward law enforcement, which continues beyond the schoolhouse door. This can frustrate the efforts of many high-quality law enforcement officials because it weakens their relationships with the communities they serve.²⁵ It also compromises their safety as they continue to work in these communities.

Finally, where law enforcement officers are focused on the nonviolent and trivial misbehaviors of students, their energies are diverted from the serious criminal behaviors that erode public safety and public health.²⁶

THE FOURTH SECTION OF THE REPORT ADDRESSES HOW HARSH DISCIPLINE WEAKENS MISSISSIPPI'S ECONOMY AND IS COSTLY TO ITS TAXPAYERS.

The use of harsh disciplinary policies has had and will continue to have dramatic implications for Mississippi's economic health and well-being. If the State continues to cling to these failed policies, it will literally pay the price in the form of failing schools, deteriorating communities, and lost tax revenue.

Mississippi legislators should consider the huge amounts of money spent every year on maintaining the current school discipline policies and practices. The costs associated with such "get tough" policies, to name just a few, include: the cost of security guards and school police officers; the cost of security equipment; school administrative costs associated with processing suspensions, expulsions, and other harsh disciplinary measures; costs of incarcerating youth; and court administrative costs.²⁷

The impact on Mississippi's economy is further compounded by the long-term costs of lost tax revenue (youth who do not graduate from high school earn substantially less over their lifetime²⁸); higher public health and public assistance costs; and higher criminal justice costs.²⁹ Economists have estimated that each student who graduates from high school, on average, generates economic benefits to the public sector of \$209,100 over her or his lifetime.³⁰

THE FINAL SECTION OF THE REPORT PROPOSES FIVE RECOMMENDATIONS FOR MISSISSIPPI STATE LEGISLATORS.

The State faces a choice between continuing to "get tough" on school discipline, or starting to "get smart" about how we treat our youth. State legislators should consider policies that improve school quality, public health, public safety, and economic prosperity throughout the State through the implementation of common sense school discipline. Recommendations for such policies include:

- 1 . **Guided Discretion.** We recommend requiring school districts to develop policies that use a graduated approach to discipline and are based on disciplinary "best practices," while allowing districts to retain significant control over shaping local disciplinary strategies.
- 2 . **Meaningful Accountability and Transparency.** We recommend improving statewide transparency and accountability by:
 - A. Requiring school districts to submit quarterly reports of their discipline data to the Mississippi Department of Education (MDE), at least for the next two years.
 - B. Requiring MDE to (1) review the district data and use it to determine which districts are following the best practices listed in Recommendation 1, and require action plans from those that are out of compliance; (2) release annual reports of statewide discipline data; (3) provide an opportunity for public comment at the end of both the first and second years of reporting; (4) make recommendations to the legislature at the end of the second year of reporting for how to ensure district compliance with the best practices listed in Recommendation 1.
- 3 . **Resources and Incentives for Developing Safer and More Effective Schools.** We recommend creating a grant program to support school districts in the development of positive school climates.
- 4 . **Multi-Stakeholder Collaboration.** We recommend providing funding and incentives to encourage community stakeholders and local agencies—including, but not limited to students, parents, school districts, the juvenile justice system, law enforcement, community organizations, and social service groups—to adopt a Cooperative Agreement or Memorandum of Understanding, for the purpose of working together to reduce the number of students entering the juvenile and criminal justice system.
- 5 . **Improved Training.** We recommend funding the MDE to develop and implement training curricula, and to direct local districts to train educators, school resource officers, and other school staff on the local discipline policy in order to ensure all are informed of their roles and responsibilities.

INTRODUCTION

Much has been written in recent years about how zero tolerance and other harsh school disciplinary policies and practices have failed to make schools safer or more effective. There has been extensive research and documentation of the devastating harm caused to youth, and particularly youth of color. Yet, across Mississippi, public schools are using zero tolerance and other destructive policies and practices, excluding students from the classroom and trapping Mississippi's youth in a pipeline to prison. Mississippi is mired in an extreme school discipline crisis.

In the most recent event to sound the alarm, the United States Department of Justice filed suit in October 2012 against the city of Meridian, the County of Lauderdale, two youth court judges, the State of Mississippi, and state agencies for operating a school-to-prison pipeline.³¹ The complaint alleges that these actors are “engag[ing] in a pattern or practice of unlawful conduct through which they routinely and systematically arrest and incarcerate children, including for minor school rule infractions, without even the most basic procedural safeguards, and in violation of these children’s constitutional rights.”³² Among other extremely disturbing facts, the complaint alleges that Meridian schools repeatedly respond to infractions such as “disrespect,” “refusal to follow directions,” and “profanity” by referring students to law enforcement. They also routinely suspended students on juvenile probation, resulting in their automatic incarceration for such low-level behaviors as use of vulgar language, flatulence in class, and dress code infractions like having a shirt untucked.³³

But while the suit is the most recent event to sound the alarm, the school-to-prison pipeline is nothing new in Mississippi, and it is certainly not unique to Meridian. In fact, it is a problem that has plagued Mississippi schools statewide for years. For well over a decade, heartbreaking stories of extreme discipline and the criminalization of young people have poured out of Mississippi public schools.

In 2000, what began with a few students playfully throwing peanuts at one other on a school bus ended in five Black male high school students being arrested for felony assault, which carries a maximum penalty of five years in prison. When one of the peanuts accidentally hit the white female bus driver, the bus driver immediately pulled over to call the police, who diverted the bus to the courthouse where the students were questioned.³⁴ The Sheriff commented to one newspaper, “[T]his time it was peanuts, but if we don’t get a handle on it, the next time it could be bodies.”³⁵

Around the same time, for one 4th grade Black girl, minor disrespectful behavior led to her being pushed out of her school entirely. After refusing to participate in a class assignment, she was suspended out of school for three days for “defiance of authority.” Subsequently, she was given another three day out-of-school suspension for “defiance of authority” for humming and tapping her desk. The school then referred her to an alternative education program for “drug-related activity,” when she wore one pant leg up, although there was no other indication of any involvement with drugs. When the alternative school would not accept her because it provided instruction for grades 5-12 only, the school district promoted her despite her failing grades, in order to get her out of the mainstream school.³⁶

More recently, one Black mother in Holmes County reported opening her door one morning to a police officer on her doorstep. Over his shoulder, she could see her frightened five-year-old son locked in the back seat. Her child’s crime: violating the dress code. Her son’s school required solid black shoes, and despite her best efforts to cover them with a black marker, red and white symbols were still visible on her son’s black shoes. When she followed up with her son’s principal, he justified his actions by telling her that her son needed to be “taught a lesson.”³⁷

In 2009, in Southaven, DeSoto County, armed police officers responded to an argument between three students on a school bus by reportedly arresting a half dozen Black students, choking and tackling one Black female student, and threatening to shoot the other students on the bus between their eyes.³⁸

In 2010, in Jackson Public School District, until a lawsuit was filed, staff at one school regularly handcuffed students to metal railings in the school gymnasium and left them there for hours if they were caught not wearing a belt, among other minor infractions. For example, one 14-year-old boy was reportedly handcuffed to the railing when he wore a stocking cap to class, threw his papers on the ground, and refused to do his school work.³⁹

In 2011, a high school student was suspended and sent to alternative school for five weeks after his school administrators learned about a rap song he had written and recorded, while at home, about his school.⁴⁰

In the last few years, in Meridian, a male student estimated that he went back and forth between school and the juvenile justice system thirty times. In 8th grade, he was put on probation by a youth court judge for getting into a fight. Since then, reportedly any infraction, even some as minor as being a few minutes late to class or wearing the wrong color socks in violation of the dress code, were counted as violations of his probation and resulted in immediate suspension and incarceration in the local juvenile detention center.⁴¹

These are just a handful of stories from among the tens of thousands of Mississippi students who, every year, are having their lives turned completely upside down by harsh disciplinary consequences, too often in response to minor, age-appropriate mistakes, like violating dress codes, making sarcastic remarks, and fighting with their peers.

When harsh disciplinary policies and practices remove huge numbers of students from school, often sending them into the juvenile and criminal justice systems, the harm to individual youth and families is obvious. What is less obvious, however, is the damage that teachers, law enforcement officials, communities, and the State overall have also suffered over the last decade because of these extreme disciplinary practices.

This report will begin with a brief background on the current state of school discipline in Mississippi. It will then discuss the impact of these “get tough” approaches to school discipline. An analysis of these extreme and destructive school discipline practices shows that:

- Harsh school disciplinary practices have undermined the work of Mississippi educators and impeded the overall progress of the state education system.
- Mississippi law enforcement officials are made less effective—and overall public safety and health are compromised—by this misguided disciplinary approach.
- Harsh discipline weakens Mississippi’s economy, and is costly to its taxpayers.



I. THE CURRENT STATE OF SCHOOL DISCIPLINE

In recent years, school districts have been adopting and applying to youth the same strategies that have led to the mass incarceration of adults.⁴² Three of the most significant strategies—mandatory minimum sentencing, three-strikes laws, and “broken windows” policing (a law enforcement strategy of aggressively policing traditionally ignored minor offenses with the intended purpose of preventing more serious crimes) are echoed throughout student discipline policies across Mississippi. For example:

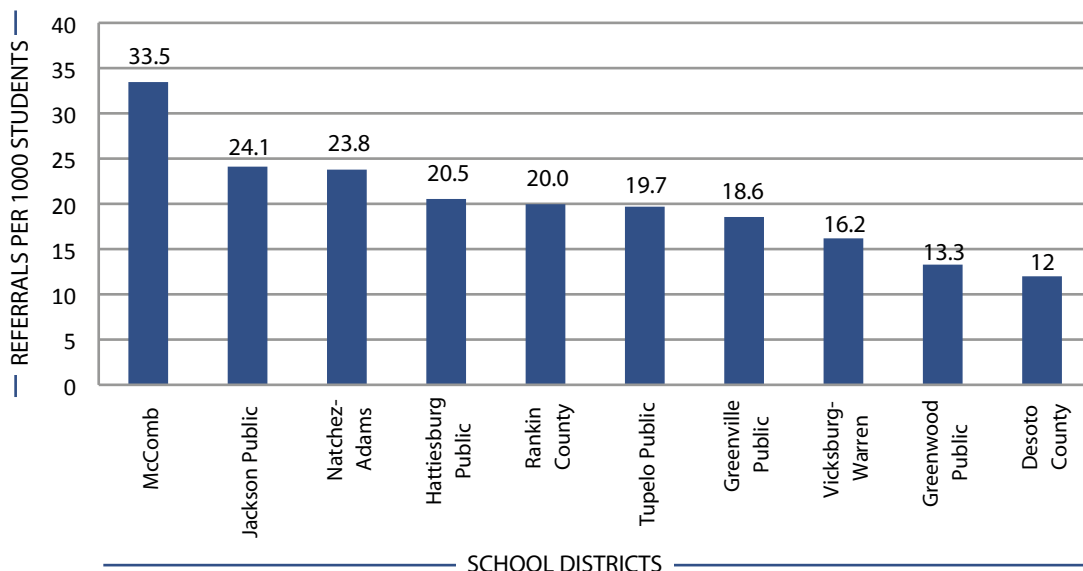
- Mandatory minimum sentencing: The policies of Lauderdale County require in-school suspension, out-of-school suspension, or expulsion for many offenses, even some highly subjective behaviors like “insubordination.”⁴³
- Three strikes: South Delta School District mandates that students who cause a “distraction” in class two times are subject to be sent to alternative education the third time.⁴⁴
- Broken windows: The policies of Moss Point School District state that virtually any misbehavior can result in a student being expelled.⁴⁵ Pascagoula School District also allows for an immediate out-of-school suspension and/or recommendation for expulsion for “any action which is deemed disorderly conduct or misconduct,” including misbehavior as minor as refusal to give a name.⁴⁶

The primary effect of these practices has been to push out, and criminalize, large numbers of Mississippi’s students for a whole range of behaviors, many of which had not previously been considered to be grounds for school exclusion, or thought of as being “criminal.”

1) Mississippi schools arrest students and refer students to juvenile detention centers at high rates, and mostly for typical adolescent, non-violent behavior.

- Mississippi schools are too often responding to normal adolescent behavior with the most severe school disciplinary response: arresting and/or referring the student to juvenile detention centers. In McComb School District, for example, public schools in 2010-2011 referred 33 out of every 1000 students in their 2,870-student school system.⁴

FIGURE A: Referrals to Juvenile Detention Centers per 1000 Students
(SY 2010-2011) Source: Mississippi Department of Education



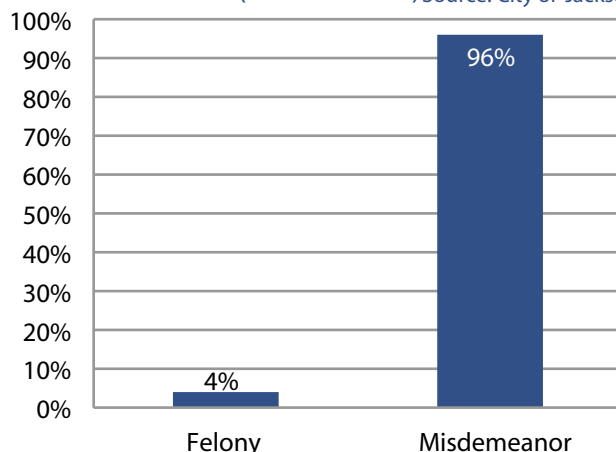
- Referral to law enforcement and the juvenile justice system is also used on very young children. For example, data collected in Amite County School District show that 81% of students referred to juvenile justice and/or law enforcement in the 2008-2009, 2009-2010, and 2010-2011 school years were of students in the 8th grade or younger, and included several students in the 2nd and 3rd grades.⁴⁸

- While Mississippi school districts do not make comprehensive school-based arrest data publicly available, according to data collected by the Meridian Police Department, there were 5.8 arrests on school grounds for every 100 students in Meridian, Mississippi in the 2009-2010 school year.⁴⁹
- In one of Mississippi's largest school districts, Jackson Public Schools, according to data collected from the Jackson Police Department, only 4% of the misconduct that led to arrest on school grounds during the 2010-2011 school year was for behavior that actually posed a serious threat to students, staff, and the school, such as aggravated assault.⁵⁰ In fact, the most prevalent reason, accounting for one-third of arrests on school grounds, was the highly subjective and vague offense of "disorderly conduct."⁵¹
- The effect of arrest on youth goes far beyond the ramifications of having a police record. According to research, a first-time arrest doubles the odds that a student will drop out of school, and a first-time court appearance quadruples the odds.⁵² As for the effects of incarceration, as one study found, incarcerated youth are more likely to attempt suicide than their non-incarcerated peers, and the completed suicide rate is four times the completed suicide rate of youth overall.⁵³ Even after release, an estimated one-fifth to three-fifths of young people who have experienced incarceration will attempt suicide at some time in their life.⁵⁴ The fact that the academic and psychological impact of arrest and incarceration on youth is deeply harmful and far-reaching was further highlighted in interviews with multiple Mississippi students and families. For example:

One mother described how, after her child was sent to a Juvenile Detention Center for a classroom disruption, he would cry and beg his mother not to send him back to school because he no longer felt safe there.⁵⁵

Another student from Jones County described how, after being arrested for a minor fight in the lunch room, she suffered anxiety-induced asthma attacks during subsequent interactions with school administration.⁵⁶

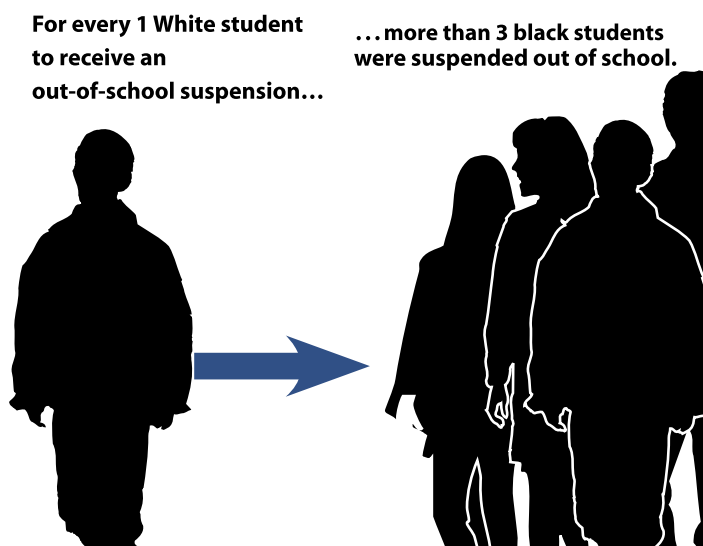
FIGURE B: Arrests on School Grounds Felonies v. Misdemeanors in Jackson, MS (SY 2010-2011) Source: City of Jackson



2) Black students are hit the hardest by harsh discipline practices.

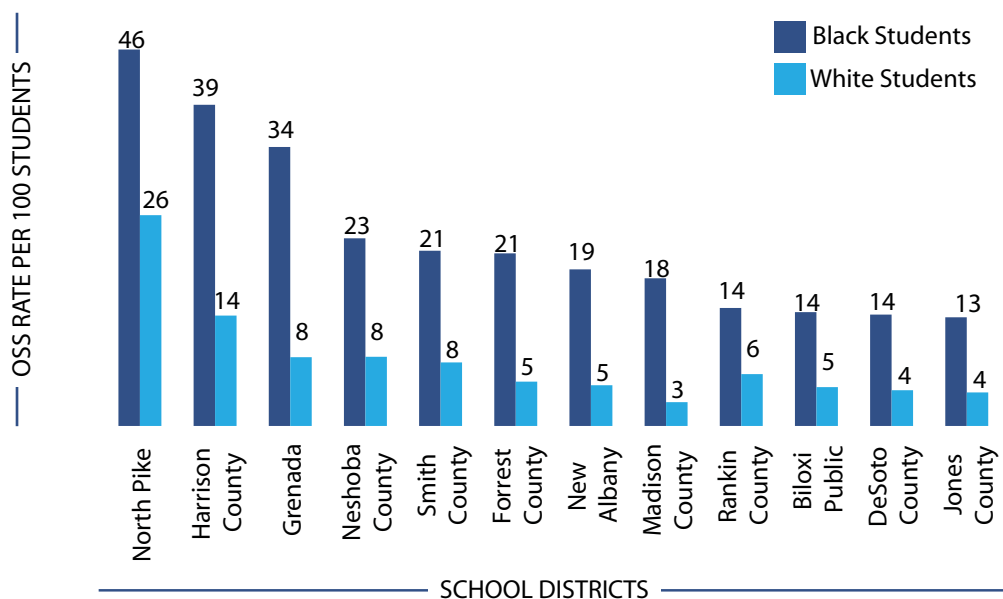
- Black students are disproportionately affected by harsh discipline policies and practices in Mississippi. According to data gathered on 115 Mississippi school districts by the U.S. Department of Education's Office for Civil Rights (OCR) in its Civil Rights Data Collection for the 2009-2010 school year, Black students, who made up half the student population in these districts, received almost 75% of the out-of-school suspensions in these districts, making them over three times more likely than White students to receive an out-of-school suspension.⁵⁷

FIGURE C: Out-of-School Suspensions in Mississippi by Race (SY 2009-10) Source: U.S. Department of Education



- In some school districts, there was an even greater disparity. In Lawrence County, for example, Black students were eight times more likely to receive an out-of-school suspension than White students.⁵⁸
- Racial disparities in school discipline are a statewide problem transcending location and school demographics. Black students are suspended out of school at high rates in both majority Black and majority White schools and in urban and suburban districts across the State.⁵⁹ The graph below shows that Black students are suspended out-of-school at much higher rates than their White peers in majority White school districts across Mississippi.
- Black students are often treated differently than White students who exhibit similar behavior. National research on student behavior has found that racial disparities in school discipline are not the result of Black students acting out more; rather the differences lie in how adults in the school building respond to student behavior. Broad, discretionary offense categories like “disorderly conduct,” “disrespect of authority,” or “disobedience” are mainly in the eye of the beholder, leaving significant room for implicit and explicit racial biases to creep into the discipline process and exacerbate disparities.⁶⁰ This fact was also highlighted during interviews with multiple Mississippi students about their schools. For example:

FIGURE D : Black Out-of-School Suspension (OSS) Rates per 100 Students v. White Out-of School Suspension (OSS) Rates per 100 Students in Select Majority White School Districts
(SY 2009-2010) Source: US Department of Education



In an interview, the mother of a Black middle school student in Jones County detailed how her son was arrested and charged with assault when he got in a schoolyard scuffle with a White student who had used racial epithets to refer to his Black peers. According to the mother, the White student was not disciplined for his actions.⁶¹

A Black 9th grader in Jones County, MS recounted the story of a Black classmate who was expelled for using marijuana and chewing tobacco in the bathroom. According to the student, a White student caught for the same offense was only suspended for a few days.

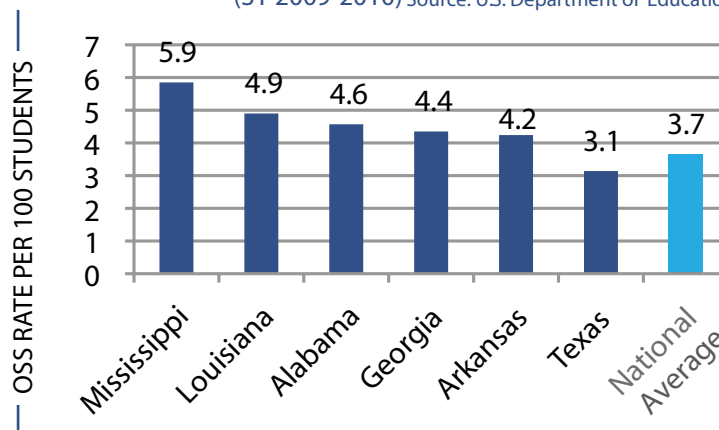
The 9th grader went on to explain: *The White kids don't get handcuffed. If a White kid gets into an altercation it depends on who they are and how they act.... They won't go to jail. They will just get suspended for three to five days and come back to school.... I was handcuffed and arrested for getting into a fight at school. They took us straight from school to the detention center where we were stripped of our clothes, forced to shower in front of others, and required to take a drug test. We had to spend the night there. I had never been in trouble in school before.*⁶²

- Given this, it is no surprise that not only are Black students suspended, expelled, and arrested at school at rates higher than their White peers, but too often these punishments are for behavior that does not merit the severity of the disciplinary response. The stories that illustrate this, highlighted in the introduction to this report, are heartbreaking. In Holmes County a five-year-old Black child was escorted home in a sheriff car for the dress code violation of wearing shoes with some red and white symbols on them, where the dress code required solid black shoes.⁶³ In Southaven, in response to an argument between three students on a school bus, police officers reportedly arrested a half dozen Black students, choked and tackled a Black female student, and threatened to shoot the other students on the bus.⁶⁴

3) Mississippi schools suspend a high volume of students out of school every year.

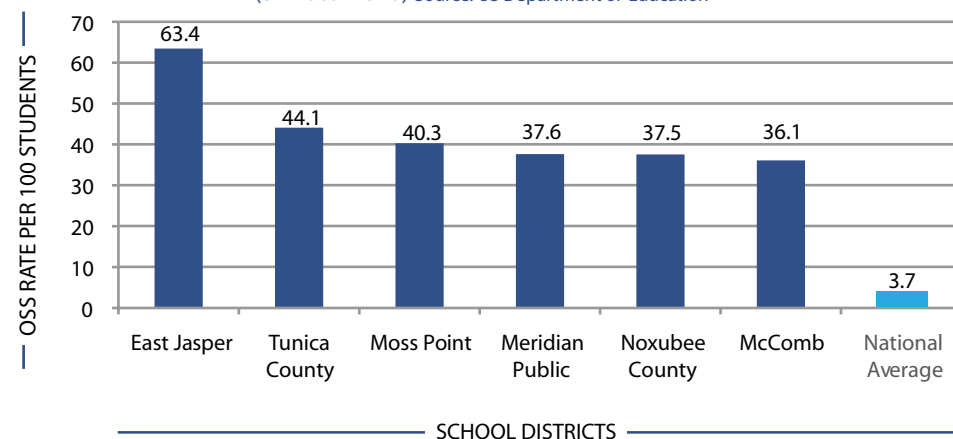
- In the 115 school districts covered in OCR's data collection, there were over 54,000 out-of-school suspensions reported for the 2009-2010 school year. In that school year, Mississippi suspended students out of school at a rate of almost six out of every 100 students; a rate higher than most neighboring states, and higher than the national average.⁶⁵

FIGURE E: Out-of-School Suspension (OSS) per 100 Students Mississippi v. Neighboring States
(SY 2009-2010) Source: U.S. Department of Education



- Furthermore, those school districts in Mississippi that have the highest out-of-school suspension rates far surpass the national average.⁶⁶ As the graph below shows, the six Mississippi school districts with the highest out-of-school suspension rates have rates that are more than nine times higher than the national average.⁶⁷ East Jasper School District's out-of-school suspension rate, the highest in the state, is more than seventeen times higher than the national average.

FIGURE F: Out-of-School Suspension (OSS) per 100 Students in Mississippi Counties with Highest Rates v. National Average
(SY 2009-2010) Source: US Department of Education

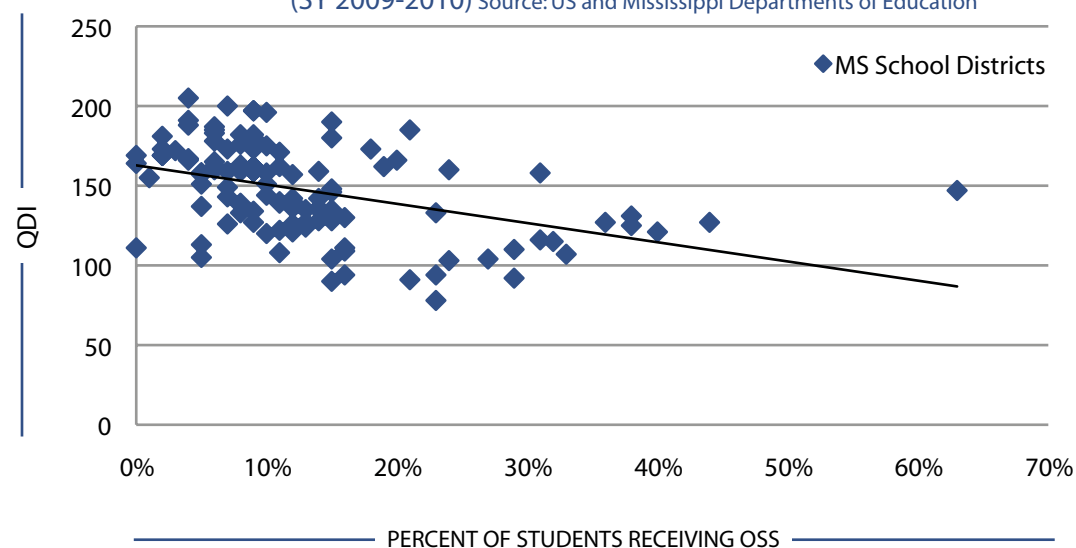


II. HARSH DISCIPLINE UNDERMINES THE WORK OF EDUCATORS AND THE STATE EDUCATION SYSTEM

Over the last ten years, Mississippi has implemented numerous school reform strategies, including, to name a few, Mississippi's 1982 and 2006 Education Reform Acts; the 2007 MS Dropout Prevention Plan, aimed at monitoring dropout numbers; the "On The Bus" Campaign, a privately funded \$1.5 million public awareness dropout prevention campaign; and the 2009 Children First Act, which authorized placing underperforming school districts in conservatorship.⁶⁸ Yet for all these efforts, the state graduation rate, according to Education Week, is only 61%, which is the 6th lowest among the 50 states.⁶⁹ For Black students, the graduation rate is 57%,⁷⁰ and Mississippi has the 4th lowest graduation rate for White students and the 7th lowest graduation rate for Latino students in the country.⁷¹ The reasons Mississippi schools have failed to achieve greater academic success are many. But as discussed below, the overuse of harsh school disciplinary practices are likely undermining education reform efforts, and not helping the work of educators and the state education system.

While school districts often attempt to justify their harmful and extreme disciplinary practices as necessary for the purposes of removing the "bad" students so that the rest of the students may learn, national evidence indicates the contrary: schools with exclusionary discipline practices have lower academic outcomes. Indeed, as the graph below shows, there is negative relationship between Mississippi school districts' out-of-school suspension rates and their Quality Distribution Index, an accountability metric that the Mississippi Department of Education computes annually for each school district based on test scores and student proficiency data.⁷²

FIGURE G : Mississippi School Districts Percentage of Out-of-School Suspensions (OSS) v. Quality Distribution Index (QDI)
(SY 2009-2010) Source: US and Mississippi Departments of Education



This is corroborated by extensive national research, which has found that schools with high rates of suspension and expulsion also tend to have lower test scores and lower graduation rates,⁷³ and that harsh disciplinary practices are linked with poor school-wide academic achievement.⁷⁴

Yet, there are no statewide prescribed standards for school discipline that ensure that the codes of student conduct in Mississippi's school districts meet basic standards of fairness and are aligned with educational goals. The lack of standards allows schools to use harsh and extreme punishments for minor infractions, consequently depriving students of classroom time. For example, in East Jasper School District, the middle school discipline policies state that a wide range of relatively minor or subjective behaviors—such as "refusal to give name upon request," "refusal to comply with grooming rules," and "other misbehavior as determined by the administration"—can result in out-of-school suspension for a first offense, and lead to school expulsion after a third offense.⁷⁵

These extreme policies have serious consequences not only for the educational opportunities of students within those districts, but also for the entire state educational system, as they effectively act like a giant brake on statewide school improvement efforts. There are no successful schools that suspend, expel, and refer large numbers of students to law enforcement. Thus, the many schools throughout Mississippi that are overusing zero tolerance and “get tough” strategies are working at cross-purposes with the broader state interest in promoting teaching and learning in healthy and productive ways.

Harsh and extreme approaches to discipline affect schools in a variety of ways that both inhibit school progress and create significant difficulties for educators. For example, one of the most important factors involved in improving student achievement is maximizing time engaged in academic learning.⁷⁶ However, out-of-school suspensions, expulsions, and arrests result in massive amounts of lost learning time—hundreds of thousands of instructional hours every year in Mississippi.⁷⁷ Obviously, students who are not in class are not doing much learning. Thus, students subjected to harsh disciplinary measures tend to fall behind academically.⁷⁸ It is also important to recognize the effects that student exclusion can have on the learning environment even when the student is allowed to return. First, because the zero tolerance approach is ineffective at teaching appropriate behaviors or addressing root causes of disciplinary problems, the misbehaviors that led to the punishment are likely to be repeated.⁷⁹ Additionally, because students often fall behind in class, their teachers frequently must devote time to catching them up with the rest of the class, taking time away from other students and thus hurting overall academic performance.⁸⁰ And if students do not catch up, they often become frustrated or embarrassed that they are not on level with their peers, and thus disrupt class even more.⁸¹

Additionally, these harsh disciplinary consequences frequently trigger a cycle of disengagement from schools and escalating rule breaking.⁸² Students often become less trusting and more resentful of their teachers, losing the “connectedness” that is such a critical part of academic success.⁸³ This is obviously deeply concerning as it relates to the individual students, but it also poses serious challenges for the students’ teachers because these youth become much more challenging to teach. Having increasingly alienated students within a school also leads to a deterioration of school culture, making it extremely difficult, if not impossible, for educators to create the type of healthy and productive learning environment that allows them to be effective in their jobs.⁸⁴

Simply put, the students who are dropping out and achieving academically at levels far lower than their peers are usually the students who are being suspended, expelled, and arrested in school.⁸⁵ Zero tolerance policies tend to exacerbate whatever challenges those students are facing, making it more likely that the affected students will fall behind academically or leave school.⁸⁶ While many educators are actively working to achieve greater equity and justice within the educational system and to help students achieve academic success, harsh school discipline practices are effectively cutting these efforts off at the knees. Furthermore, the harmful effect of harsh school disciplinary policies on the Mississippi education system, like many other school systems nationwide, is often exacerbated in schools with a police and/or security presence, and where students are regularly arrested or referred to the juvenile justice system. The response to safety concerns is often to add more police, security guards, metal detectors, and surveillance cameras to school.⁸⁷ But while many school resource officers and security guards do excellent work, the unfortunate reality is that the security presence often contributes to a negative school culture.⁸⁸ The look and feel of many schools changes dramatically with the addition of security, becoming less welcoming and more threatening to students.⁸⁹

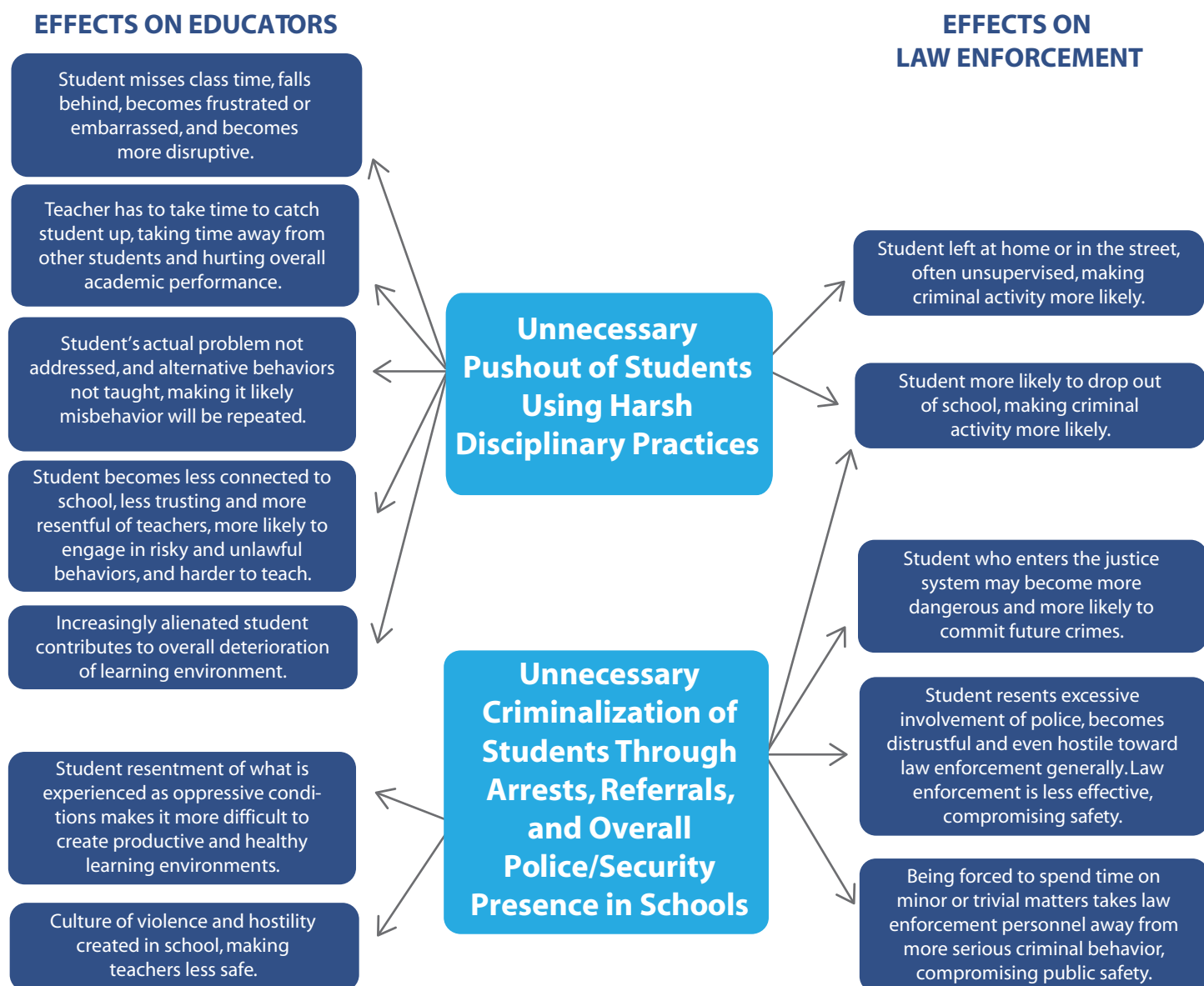
As a result of the overreliance on police officers to handle routine disciplinary matters, students throughout the State are regularly having negative or traumatic encounters with the police within schools.⁹⁰ These dynamics prevent schools from being a safe haven for many young people, leading to deepening student resentment and further deterioration of school climate.⁹¹ Indeed, one of the unfortunate (and ironic) consequences of the zero tolerance disciplinary method is that it can even provoke additional disruptive behavior, rather than prevent it.⁹² Risking these harms may be justified when student behavior poses a serious threat to the safety of others. However, Mississippi schools are using harsh disciplinary measures for low level behaviors.⁹³ Thus, many schools throughout Mississippi are unnecessarily causing significant harm to the overall education system.

Of course, the corollary is that there are substantial academic gains to be made by eliminating these unnecessarily harsh measures. School districts outside the State are experiencing great success by rejecting the zero tolerance approach. Safer and more effective schools are being created by using common sense disciplinary approaches that maximize class time and limit the role of law enforcement in schools to addressing truly serious behaviors. And these communities are reaping the rewards in terms of improved attendance rates, academic achievement levels, and graduation rates.⁹⁴ All of these things make educators’ jobs easier, as well.

Examples of such success can be found in places like Denver, Colorado and Baltimore, Maryland. In these districts, behaviors that many schools would have responded to with harsh punishment are now more likely to lead to school personnel attempting to address the root causes of the incident while teaching the student more appropriate behaviors.⁹⁵ As a result, school suspension in Denver has decreased from a rate of 14 suspensions for every 100 students in the district in 2007-08 to about 11 for every 100 students in 2011.⁹⁶ Expulsions are also down by 48.8%.⁹⁷ In Baltimore, school suspensions dropped from 15,277 in the 2007-2008 school year to below 10,000 in 2009-2010.⁹⁸

At the same time, these reforms have contributed to academic gains, with both districts experiencing significant improvements in their graduation rates. Baltimore City's graduation rate increased from 60.1% in the 2006-2007 school year (prior to discipline reform efforts) to 71.9 % in the 2010-2011 school year—an 11.8% increase.⁹⁹ Similar strides occurred in Denver, where the superintendent's office has lauded discipline reform as a major reason for increased achievement.¹⁰⁰ Because these districts recognized that overusing harsh discipline is a losing strategy, they have reaped the rewards. It is time for Mississippi to do the same.

THE DOWNWARD SPIRAL OF HARSH SCHOOL DISCIPLINE



III. MISGUIDED DISCIPLINARY MEASURES HARM LAW ENFORCEMENT EFFORTS AND OVERALL PUBLIC HEALTH AND SAFETY

The zero tolerance approach has also caused significant detrimental effects to Mississippi's law enforcement personnel because it has undermined rather than improved public safety. The goal of the law enforcement community is to protect the public by enforcing laws and preventing crime. Harsh disciplinary approaches are at odds with this goal, as they put young people at home without adult supervision; increase the likelihood that they will engage in future misbehavior; increase the likelihood that they will drop out of school; and increase the risk that they will be funneled into the justice system.¹⁰¹ For example, the strongest predictor of later arrest among adolescent females is suspension, expulsion, or being held back during their middle school years.¹⁰² Thus harsh disciplinary practices make it more difficult for law enforcement officials to prevent crime and promote public safety.

Moreover, every year there are tens of thousands of students all over Mississippi who either directly or indirectly have negative and/or traumatic experiences with police officers or other law enforcement personnel in schools or because of school-related behaviors.¹⁰³ This poses a problem for law enforcement officers across Mississippi. These negative or traumatic experiences breed widespread resentment and distrust among youth, directed at the very people charged with keeping them safe. Young people resent being treated as threats; they lose faith in the goodwill of police when they believe they are being treated unfairly; and they frequently become antagonistic toward law enforcement in response.¹⁰⁴

This further exacerbates any disconnect or resentment that may already exist between communities and police, given the historically negative relationships that often exist between law enforcement and communities of color.¹⁰⁵ When officers on the street encounter someone who has a negative association with them, it becomes more likely that a violent incident will occur, or that a situation will escalate.¹⁰⁶ Thus, inappropriate uses of harsh disciplinary measures not only frustrate the efforts of many high-quality law enforcement officials because it weakens their relationships with the communities they serve, a critical element of their success.¹⁰⁷ It may also compromise their safety, as well as the safety of the broader community.

Another damaging effect of these practices is that instead of having law enforcement personnel devoting their energies to what they were trained to do, which is to address serious criminal behaviors that erode public safety and public health, they are forced to spend valuable time on minor or even trivial offenses.¹⁰⁸ Once again, this compromises public safety, because time that could be spent addressing the complex challenges associated with serious criminals is instead spent on serving as school disciplinarians.

On the other hand, alternative approaches can improve the relationship between communities and police, keep more young people in school and off the streets, and make our communities healthier. As a strategy to reduce crime and violence, Fight Crime: Invest in Kids—a national organization of more than 5,000 police chiefs, sheriffs, prosecutors, attorneys general, other law enforcement leaders, and victims of violence—has advocated for reductions in the use of school disciplinary measures that push students out of school.¹⁰⁹ These law enforcement officials have recognized that school disciplinary approaches that make students less likely to graduate high school and more likely to wind up incarcerated are a serious threat to overall public health and safety, and must be replaced with the superior alternatives available.¹¹⁰

IV. HARSH DISCIPLINE WEAKENS MISSISSIPPI'S ECONOMY AND IS COSTLY TO TAXPAYERS

In the last few decades, as incarceration rates have spiked, so too has the cost to taxpayers. From 1990 to 2007, Mississippi's penal system expanded by 166%, and the State's correction costs have increased by well over \$100 million a year in the last decade.¹¹¹ Yet, state funding for public education *decreased* in Fiscal Year 2012 for the fourth year in a row, even while the overall state budget increased.¹¹² Mississippi also ranks 45th lowest in the nation in per pupil spending, and 2nd highest for percentage of school revenue provided by the federal government.¹¹³ Thus, in fiscal terms, the State is prioritizing incarceration over education.

The use of harsh and extreme school discipline policies, which causes more young people to be placed into the juvenile and criminal justice systems, leads to increased spending on incarceration. These local government decisions are economically unsustainable, and they have had, and will continue to have, huge fiscal implications for the entire State. For example, consider the many costly components of the "get-tough" disciplinary approach:

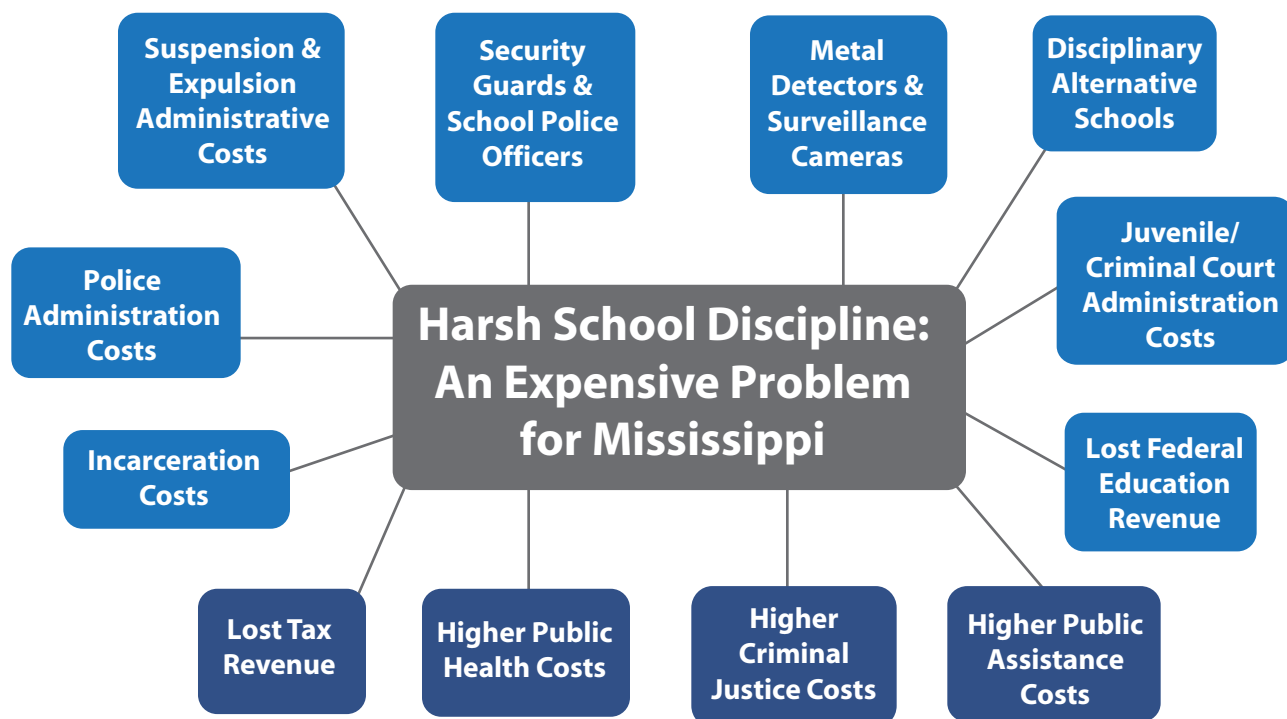
- Security guards and school police officers (salaries and benefits for school-based security personnel)¹¹⁴
- Metal detectors, surveillance cameras, and other security equipment (purchasing and using expensive equipment)¹¹⁵
- School administrative costs (time spent by school staff on investigations, hearings, processing students, and implementing suspensions, expulsions, and other harsh disciplinary measures)¹¹⁶
- Police administrative costs (time spent by police officers on investigations, processing citations, transporting students, and charging and detaining students for school-based offenses)¹¹⁷
- Court administrative costs (time spent by juvenile and criminal courts on processing cases, arraignments, hearings, and trials for school-based offenses)¹¹⁸
- Disciplinary alternative schools (costs of educating students removed from traditional schools for disciplinary reasons)¹¹⁹
- Incarceration costs (costs of detaining youth)¹²⁰
- Lost federal education revenue (decreased per pupil revenue received by the State and local school districts when disciplinary practices lead, or contribute, to students not being in school)¹²¹

When all the short-term direct costs of zero tolerance are combined, the total cost to Mississippi's local and state governments is likely tens if not hundreds of millions of dollars every year. But the costs associated with zero tolerance do not end there. Because these practices are significant contributors to lowering graduation rates and increasing incarceration rates,¹²² there are substantial longer-term, indirect costs associated with these counter-productive disciplinary practices:

- Lost tax revenue (youth who do not graduate from high school earn substantially less over their lifetime, resulting in less tax revenue for the government)¹²³
- Higher public health costs (a less educated populace leads to greater expenses on programs like Medicaid and Medicare)¹²⁴
- Higher public assistance costs (additional food, housing, and welfare expenses associated with having a less educated populace)¹²⁵
- Higher criminal justice costs (lower education levels predict higher crime levels, which leads to higher public expenditures on police, the court system, the prison system, etc.)¹²⁶

Economists have estimated that each student who graduates from high school, on average, generates economic benefits to the public sector of \$209,100 over her or his lifetime.¹²⁷ Thus, the more than 16,000 members of every Mississippi 9th grade class who fail to graduate on time cost the State over 3 billion dollars.¹²⁸ Given the negative impact harsh disciplinary practices have on graduation rates, it is clear that the tens of thousands of out-of-school suspensions, expulsions, referrals to alternative programs, and school-based arrests that occur in the State every year are costing the State millions, if not billions, every year.

HUNDREDS OF MILLIONS OF DOLLARS IN THE SHORT TERM ...



...AND BILLIONS OF DOLLARS IN THE LONG TERM

The fiscally sound approach to school discipline is to eliminate policies and practices that are pushing young people out of school and toward jail and the correctional system. Indeed, organizations and policymakers across the political spectrum have recognized the need for a more sensible, and cost-effective, approach to addressing the challenges of our youth. For example, even the organization Right on Crime—whose statement of principles has been signed by such staunch conservatives as Newt Gingrich, Grover Norquist, and Jeb Bush—proposes shrinking the public investment in the justice system by addressing over-criminalization and implementing graduated approaches to school discipline that sharply reduce the use of the juvenile justice system.¹²⁹

There are enormous economic gains to be realized from replacing misguided discipline policies and practices with alternatives that can actually improve graduation rates, lead to lower incarceration rates, and ultimately, create a more educated, healthy, and productive citizenry. Every dollar that is currently being spent on police, metal detectors, and surveillance cameras is a dollar that could be used for teachers, guidance counselors, and school psychologists. This is an opportunity for Mississippi not only to save taxpayer dollars, but also to free up additional resources that could then be allocated toward the expansion of educational opportunities for youth, among other priorities.

In other words, through better use of resources, the State can ensure that the current downward spiral instead becomes an upward spiral toward effective schools, stronger communities, and fiscal health. Making smart investments in our youth saves the State huge sums of money now, and positions Mississippi to be far more prosperous in the future.

V. CONCLUSION AND RECOMMENDATIONS

There is no great mystery to creating safe and effective schools. Young people need to feel valued and cared for; they need to be provided the appropriate resources; and they need to be allowed to make the same mistakes that all of us make when we are young. Unfortunately, too many Mississippi schools have too often failed to provide such learning environments, and as a result, the State is at a crossroads. The students who are suspended, expelled, and arrested in school do not just disappear. They show up in the streets, in the unemployment line, and in our jails and prisons. They continue to remind us in very visual and costly ways that we have failed them, and that in doing so, we have also failed educators, members of law enforcement, communities, and the entire State.

Below are five key recommendations for Mississippi state legislators that will improve school quality, public health, public safety, and economic prosperity throughout the State through the implementation of common-sense school discipline.

1. Guided Discretion

We firmly believe that local school systems should have broad discretion to implement disciplinary policies and practices that best fit the conditions within their schools. There are literally dozens of potential disciplinary responses to student misbehavior, and it is not the role of the State to determine which of those interventions are appropriate in particular situations. However, it is critically important that the most serious disciplinary consequences—those that carry significant negative impact for individual students, families, communities, and the State overall—should not be used for low-level student misconduct, as has become routine throughout Mississippi.

Therefore, we recommend that school districts be required to develop policies that use a graduated approach to discipline, within which they will retain significant control over shaping local disciplinary strategies. Even within that discretion, however, there should be a few requirements based on disciplinary “best practices:”

- A. Arrests, referrals to juvenile detention centers, expulsions, disciplinary referrals to alternative programs, and long term out-of-school suspensions should be limited to serious, school-based student infractions that threaten school safety, namely offenses involving a firearm or deadly weapon; dealing or delivering in controlled substances; or any other offense resulting in serious bodily injury to another.
- B. Students should not be excluded from school for more than five days in a given school year absent a showing of necessity made at a formal hearing governed by strong due process protections for students and parents/guardians.
- C. The revised policies must address the needs of victims of violent acts, bullying, and other forms of harassment, but these efforts should not conflict with any of the above provisions, and thus should identify alternatives to extended school exclusion and justice system involvement for addressing these behaviors.

2. Meaningful Accountability and Transparency

Currently, nothing holds school districts or law enforcement agencies accountable for ensuring that disciplinary practices are not abused or implemented unfairly. Furthermore, gaps in data collection prevent a comprehensive understanding of the full extent of police and juvenile court involvement in school-based matters and the connections between school discipline, involvement in the juvenile and criminal justice systems, and academic performance.

We recommend improving statewide transparency and accountability in the following ways:

- A. Requiring school districts to submit quarterly reports of their school discipline data to MDE, at least for the next two years. These reports should include suspension, expulsion, and arrest data. The data should be disaggregated by offense, race/ethnicity, gender, school, age, grade, special education status, and limited English proficiency status.¹³⁰

B. Requiring MDE to do the following:

1. Review the district data reports and use them to determine whether or not a district has complied with Recommendation 1 above. If there has been non-compliance with Recommendation 1 or if there are significant racial disparities evident in the district's data, the district should be required to create an action plan for addressing those issues and submit it to MDE.
2. Release annually a report that publishes statewide school discipline data, including data on out-of-school suspensions, expulsions, disciplinary referrals to alternative schools, school-based arrests, and academic achievement.
3. Provide a yearly opportunity for public comment on districts' compliance with Recommendation 1.
4. Make recommendations to the legislature for how to ensure district compliance with Recommendation 1, including recommendations for remedial actions, such as heightened monitoring and technical assistance.

3. Resources and Incentives for Developing Safer and More Effective Schools

Too few resources are currently allocated for efforts that will promote positive school climates and alternatives to harsh school discipline.

We recommend creating a grant program to support school districts in the development of positive school climates, such as by implementing restorative justice programs, training school staff and law enforcement personnel in restorative justice, and hiring additional student support staff such as guidance counselors, social workers, and school psychologists. We recommend requiring those districts that apply for the funds to show that they are in compliance with Recommendation 1, or how they will use the funds to increase their compliance with Recommendation 1.

4. Multi-Stakeholder Collaboration

To reduce the use of exclusionary discipline and the number of students entering the juvenile and criminal justice systems, we must engage multiple stakeholders in creating comprehensive local strategies. Such stakeholders should include, but not be limited to: parents, students, school districts, the juvenile justice system, law enforcement, community organizations, and social service groups.

We recommend providing funding and incentives to encourage stakeholders and local agencies to adopt a Cooperative Agreement or Memorandum of Understanding that does the following:¹³¹

- A. Establishes a partnership relationship among community stakeholders and local agencies that are involved in the handling of disciplinary incidents.
- B. Charges the coalition with developing comprehensive strategies for doing the following:
 1. Limiting the number of school referrals to law enforcement and juvenile court.
 2. Reducing the disproportionate contact students of color have with school discipline and the juvenile justice system.
 3. Increasing graduation rates.
 4. Decreasing the use of state and local funds for juvenile justice interventions for minor misbehavior in school.

5. Improved Training

Too many educators, law enforcement personnel, and other adults within the school environment are unaware of the serious consequences of harsh school discipline and the criminalization of youth, and need more information on their impact, as well as training regarding how to appropriately address student misbehavior.

We recommend funding the MDE to develop and implement training curricula and to direct local districts to train administrators, educators, school resource officers, and other school staff on their roles and responsibilities under the local discipline policy. We also recommend the legislature provides funds for the implementation of these trainings in districts found to be out of compliance with Recommendation 1. Specifically, training curricula should include, at a minimum:

- A. Training for school administrators, teachers, school staff, and expulsion hearing officers on the adverse consequences of exclusion from school, effective classroom management techniques, adolescent development and relationship-building, conflict resolution, restorative justice/restorative practices, other disciplinary alternatives, and student engagement through challenging and culturally relevant curricula. We recommend that this training be conducted at minimum twice per year, and be included in professional development that is already provided to school officials.
- B. Training for police and security officers on child and adolescent development; cultural competence and building relationships with students; deescalating violent situations; identifying the social, emotional, and mental needs of students; directing youth to appropriate services rather than using force; and due process protections for students.¹³² All officers should be required to complete such training prior to being permitted to serve in a school.

For too long, extreme and destructive approaches to school discipline have devastated the students and families of Mississippi, harmed its teachers, members of law enforcement, and community members, and caused profound damage to the economic health and well-being of the State at large. But while this is Mississippi's reality, it does not have to be its future. Mississippi has an opportunity to promote policies that create effective schools, stronger communities, and fiscal health. The time has come for the State to reverse the tide from "get tough" investments in handcuffs and jail cells toward "get smart" investments in Mississippi's young people.



ENDNOTES

- 1 The Center for Effective Discipline, Discipline at School (NCACPS), <http://www.stophitting.com/index.php?page=statesbanning>.
- 2 The defendants in the DOJ's suit are the city of Meridian, the county of Lauderdale, two youth court judges in Lauderdale County, the State of Mississippi, the Mississippi Department of Human Services, and the Mississippi Division of Youth Services. Complaint filed in U.S. District Court Southern District of Mississippi (Oct. 24, 2012), Case: 4:12-cv-00168-HTW-LRA, United States of America v. City of Meridian, et. al., available at http://www.justice.gov/crt/about/spl/documents/meridian_complaint_10-24-12.pdf.
- 3 *Id.* at 1.
- 4 *Id.* at 11-12; 25-26.
- 5 ADVANCEMENT PROJECT & THE CIVIL RIGHTS PROJECT HARVARD UNIVERSITY, OPPORTUNITIES SUSPENDED: THE DEVASTATING CONSEQUENCES OF ZERO TOLERANCE AND SCHOOL DISCIPLINE 3 (2000), available at <http://civilrightsproject.ucla.edu/research/k-12-education/school-discipline/opportunities-suspended-the-devastating-consequences-of-zero-tolerance-and-school-discipline-policies/crp-opportunities-suspended-zero-tolerance-2000.pdf> [hereinafter OPPORTUNITIES SUSPENDED].
- 6 *Id.*
- 7 *Id.* at 4-5.
- 8 American Civil Liberties Union, "ACLU Files Lawsuit Charging Police and School Officials in Mississippi with Racial Discrimination and Excessive Force against Schoolchildren," (April 9, 2009), available at <http://www.aclu.org/racial-justice/aclu-files-lawsuit-charging-police-and-school-officials-mississippi-racial>.
- 9 Interview by Advancement Project of Holmes County parent (July 2011) [Video recording on file with authors].
- 10 "JPS Under Fire for Special-Ed Violations," Jackson Free Press (April 25, 2012), available at <http://www.jacksonfreepress.com/news/2012/apr/25/jps-under-fire-for-special-ed-violations/>.
- 11 Julianne Hing, "The Shocking Details of a Mississippi School-to-Prison Pipeline," Colorlines New for Action (Nov. 26, 2012), available at http://colorlines.com/archives/2012/11/school_prison_pipeline_meridian.html.
- 12 LAUDERDALE COUNTY SCHOOL DISTRICT STUDENT/PARENT HANDBOOK (2012-2013) 29, available at <http://www.lauderdale.k12.ms.us/?DivisionID=9052&DepartmentID=9521&ToggleSideNav>.
- 13 PASCAGOULA SCHOOL DISTRICT STUDENT HANDBOOK (2012-2013) 26-27, available at <http://psd.schooldesk.net/LinkClick.aspx?fileticket=IKGgGTFEC4%3d&tabid=8606&mid=12363>.
- 14 Data Obtained from Jackson Police Department Pursuant to Public Records Request (2010) [on file with authors]. Because the Jackson Police Department does not keep comprehensive data, it is impossible to know whether all of these arrests are for school-based offenses.
- 15 *Id.*
- 16 U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection (2009-2010).
- 17 *Id.*
- 18 See Figure E and accompanying text, p. 12. U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection (2009-2010).
- 19 These districts include East Jasper, Tunica, Moss Point, Meridian, Noxubee, and McComb. See *infra* Figure F and accompanying text, p. 16-17. U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection (2009-2010).
- 20 Education Week, "Diplomas Count 2011: Beyond High School, Before Baccalaureate—Meaningful Alternatives to a Four-Year Degree" (June 7, 2011), available at http://www.edweek.org/media/diplomascount2011_pressrelease.pdf.
- 21 AMERICAN PSYCHOLOGICAL ASSOCIATION ZERO TOLERANCE TASK FORCE, ARE ZERO TOLERANCE POLICIES EFFECTIVE IN SCHOOLS? AN EVIDENTIARY REVIEW AND RECOMMENDATIONS 44-48 (Aug. 9 2006), available at <http://www.apa.org/pubs/info/reports/zero-tolerance-report.pdf> [hereinafter APA ZERO TOLERANCE TASK FORCE, ARE ZERO TOLERANCE POLICIES EFFECTIVE?]. See also COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER & TEXAS A&M UNIVERSITY PUBLIC POLICY RESEARCH INSTITUTE, BREAKING SCHOOLS' RULES: A STATEWIDE STUDY OF HOW SCHOOL DISCIPLINE RELATES TO STUDENTS' SUCCESS AND JUVENILE JUSTICE INVOLVEMENT 73 (July 2011), available at http://www.justicecenter.csg.org/files/Breaking_Schools_Rules_Report_Final.pdf.
- 22 EAST JASPER SCHOOL DISTRICT STUDENT HANDBOOK & CODE OF CONDUCT (2012-2013) 102, available at <http://www.eastjasper.k12.ms.us/assets/forms/Kim-print-ready2-10-16-2012-Handbook-2012-2013-Revised-doc-8-25-2012-FINAL-withOUT.pdf>.
- 23 APA ZERO TOLERANCE TASK FORCE, ARE ZERO TOLERANCE POLICIES EFFECTIVE?, *supra* note 21, at 48-51.
- 24 *Id.*
- 25 Repeated negative encounters with police officers can result in a deep distrust of law enforcement. In African American communities, the repeated and/or invasive use of investigatory traffic stops, for example, have had the effect of driving a wedge between community members and the police, making it less likely that community members will trust or cooperate with the police. DONALD P. HAIDER-MARKEL, CHARLES EPP, STEVEN MAYNARD-MOODY, CONSTRUCTING DISTRUST: THE CONSEQUENCES OF AFRICAN AMERICAN ENCOUNTERS WITH POLICE 32-40 (Feb. 2012), available at <http://2012sppconference.blogs.rice.edu/files/2012/02/Haider-Markel-et-al-SPPC-2012.pdf>.
- 26 See Figure A-B, and accompanying text, p. 9-10; Private Officer News Network, "School officers train for their duties," (March 30, 2008), available at <http://privateofficernews.wordpress.com/2008/03/30/school-officers-train-for-their-duties-wwwprivateofficercom/>. See also U.S. DEPARTMENT OF JUSTICE, MISSISSIPPI BY AGENCY: ACCEPTED COPS GRANTS (Jan. 4, 2010), available at <http://www.cops.usdoj.gov/pdf/StateReports2010/ms.pdf>.
- 27 For a fuller discussion of some of these costs, see *infra* text on pp. 24-27.
- 28 LEVIN, H., BELFIELD, C., ET AL., THE COSTS AND BENEFITS OF AN EXCELLENT EDUCATION FOR AMERICA'S CHILDREN 6-9 (2007), available at http://www.cbcse.org/media/download_gallery/Leeds_Report_Final_Jan2007.pdf.
- 29 *Id.* at 9-12; 14-16; and 13-14.
- 30 *Id.* at 17-18.
- 31 The defendants in the DOJ's suit are the city of Meridian, the county of Lauderdale, two youth court judges in Lauderdale County, the State of Mississippi, the Mississippi Department of Human Services, and the Mississippi Division of Youth Services. Complaint filed in U.S. District Court Southern District of Mississippi (Oct. 24, 2012), Case: 4:12-cv-00168-HTW-LRA, United States of America v. City of Meridian, et. al., available at http://www.justice.gov/crt/about/spl/documents/meridian_complaint_10-24-12.pdf.
- 32 *Id.* at 1.
- 33 *Id.* at 11-12; 25-26.
- 34 OPPORTUNITIES SUSPENDED, *supra* note 5, at 3.
- 35 *Id.*
- 36 *Id.* at 4-5.
- 37 Interview by Advancement Project of Holmes County parent (July 2011) [Video recording on file with authors].
- 38 American Civil Liberties Union, "ACLU Files Lawsuit Charging Police and School Officials in Mississippi with Racial Discrimination and Excessive Force against Schoolchildren," (April 9, 2009), available at <http://www.aclu.org/racial-justice/aclu-files-lawsuit-charging-police-and-school-officials-mississippi-racial>.
- 39 "JPS Under Fire for Special-Ed Violations," Jackson Free Press (April 25, 2012), available at <http://www.jacksonfreepress.com/news/2012/apr/25/jps-under-fire-for-special-ed-violations/>.
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- 42 ADVANCEMENT PROJECT, TEST, PUNISH, AND PUSH-OUT: HOW "ZERO TOLERANCE" AND HIGH-STAKES TESTING FUNNEL YOUTH INTO THE SCHOOL-TO-PRISON PIPELINE 9-10 (March 2010) [hereinafter TEST, PUNISH, AND PUSH-OUT]. In Mississippi, as in many states around the country, the incarceration rate has exploded over the last 25 years. The total number of incarcerated individuals tripled between 1988 and 2008, from 7,384 to 22,754. NICOLE D. PORTER, THE SENTENCING PROJECT, INCARCERATION TRENDS IN MISSISSIPPI 1988-2008 2, available at http://www.sentencingproject.org/doc/publications/inc_MississippiTrends.pdf. This is largely the result of a series of "get-tough" law enforcement strategies employed with increasing frequency over that time. See, e.g., Marc Mauer, *Why Are Tough on Crime Policies So Popular*, 11 STAN. L. & POL'Y REV. 9 (1999).
- 43 LAUDERDALE COUNTY SCHOOL DISTRICT STUDENT/PARENT HANDBOOK (2012-2013) 29, available at <http://www.lauderdale.k12.ms.us/?DivisionID=9052&DepartmentID=9521&ToggleSideNav>.
- 44 SOUTH DELTA SCHOOL DISTRICT HANDBOOK (2007-2008) 60, available at <http://www.southdelta.k12.ms.us/assets/docs/district-office/shandbook.pdf>. The 2007-2008 handbook is the most recent available on the South Delta School District Website as of Jan. 9, 2013.
- 45 MOSS POINT SCHOOL DISTRICT HANDBOOK (2011-2012) 47-48, available at http://pascagoulaschools.com/handbooks/MossPoint_studentHandbook%202011-12.pdf.
- 46 PASCAGOULA SCHOOL DISTRICT STUDENT HANDBOOK (2012-2013) 26-27, available at <http://psd.schooldesk.net/LinkClick.aspx?fileticket=IKGgGTFEC4%3d&tabid=8606&mid=12363>.
- 47 Data Obtained from Mississippi Department of Education Pursuant to Public Records Request (2010) [on file with authors].
- 48 During the 2008-2009, 2009-2010, 2009-2010 school year, there were 27 referrals to law enforcement and/or youth court in Amite County School District. In a small district with only approximately 1,000 students, even one arrest can have an impact on the entire student body. Data Obtained from Amite County School District Pursuant to Public Records Request (2010) [on file with authors].
- 49 Data Obtained from Meridian Police Department Pursuant to Public Records Request (2010) [on file with authors]. Because the Meridian County Police Department does not keep comprehensive data, it is impossible to know whether all of these arrests were for school-based offenses.
- 50 Data obtained from Jackson Police Department Pursuant to Public Records Request (2010) [on file with authors]. Because the Jackson Police Department does not keep comprehensive data, it is impossible to know whether all of these arrests are for school-based offenses.
- 51 *Id.*
- 52 Gary Sweeten, *Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement*, 23 JUSTICE QUARTERLY 462, 473-77 (2006).
- 53 Mana Golzari, Stephen J. Hunt, and Arash Anoshiravani, *The health status of youth in juvenile detention facilities*, 38 JOURNAL OF ADOLESCENT HEALTH 776, 779 (2006).
- 54 *Id.*
- 55 Interview by Advancement Project of Amite County Elementary School student and parent (July 2011) [Video recording on file with authors].
- 56 Interview by Advancement Project of Jones County Elementary School student (July 2011) [Video recording on file with authors].
- 57 U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection (2009-2010).
- 58 *Id.*
- 59 *Id.*
- 60 Research on student behavior has found no evidence that the overrepresentation of Black students in school discipline is due to more misbehavior, and that, even when controlling for socioeconomic status, students of color are disproportionately impacted. RUSSELL SKIBA, THE COLOR OF DISCIPLINE: SOURCES OF RACIAL AND GENDER DISPROPORTIONALITY IN SCHOOL PUNISHMENT 6 (June 2000), available at <http://www.indiana.edu/%7Esaeschl/cod.pdf>. For example, a comprehensive Texas study found that Black students were far more likely than White students to be suspended for discretionary offenses, like disrespect or disruption, and were also more likely to receive exclusionary discipline than White students for their first disciplinary violation. JUSTICE CENTER – THE COUNCIL OF STATE GOVERNMENTS AND PUBLIC POLICY RESEARCH INSTITUTE, BREAKING SCHOOLS' RULES, A STATEWIDE STUDY OF HOW SCHOOL DISCIPLINE RELATES TO STUDENTS' SUCCESS AND JUVENILE JUSTICE INVOLVEMENT 40-46 (July 2011), available at: <http://justicecenter.csg.org/resources/juveniles>. The Florida State Conference of the NAACP has also reported that in Florida schools, Black male students were most likely to be arrested for misdemeanor disorderly conduct, while their White male peers were subjected to arrest for objective offenses like drug and alcohol offenses. FLORIDA DEPARTMENT OF JUVENILE JUSTICE, DELINQUENCY IN FLORIDA'S SCHOOLS: A SEVEN YEAR STUDY 12 (November 2011), available at: <http://www.djj.state.fl.us/docs/research2/2010-11-delinquency-in-schools-analysis.pdf?sfvrsn=0>.
- 61 Interview by Advancement Project of Jones County High School student (July 2011) [Video recording on file with authors].
- 62 *Id.*
- 63 Interview by Advancement Project of Holmes County parent (July 2011) [Video recording on file with authors].
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- 70 *Id.*
- 71 *Id.*
- 72 Out-of-School Suspension Data available from U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection (2009-2010). Quality Distribution Index Data is available from the Mississippi Department of Education (2009-2010).
- 73 DANIEL LOSEN & JONATHAN GILLESPIE, OPPORTUNITY SUSPENDED: THE DISPARATE IMPACT OF DISCIPLINARY EXCLUSION FROM SCHOOL 42 (August 2012), available at <http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/upcoming-ccrr-research/losen-gillespie-opportunity-suspended-ccrr-2012.pdf>.
- 74 APA ZERO TOLERANCE TASK FORCE, ARE ZERO TOLERANCE POLICIES EFFECTIVE?, *supra* note 21, at 40-41. See also COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER & TEXAS A&M UNIVERSITY PUBLIC POLICY RESEARCH INSTITUTE, BREAKING SCHOOLS' RULES: A STATEWIDE STUDY OF HOW SCHOOL DISCIPLINE RELATES TO STUDENTS' SUCCESS AND JUVENILE JUSTICE INVOLVEMENT 73 (July 2011), available at http://www.justicecenter.csg.org/files/Breaking_Schools_Rules_Report_Final.pdf.
- 75 EAST JASPER SCHOOL DISTRICT STUDENT HANDBOOK & CODE OF CONDUCT 2012-2013, 49, available at <http://www.eastjasper.k12.ms.us/assets/forms/Kim-print-ready2-10-16-2012-Handbook-2012-2013-Revised-doc-8-25-2012-FINAL-withOUT.pdf>.
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- 78 TEST, PUNISH, AND PUSH-OUT, *supra* note 42, at 16-17.
- 79 See APA ZERO TOLERANCE TASK FORCE, ARE ZERO TOLERANCE POLICIES EFFECTIVE?, *supra* note 21, at 5-6.
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- 81 APA ZERO TOLERANCE TASK FORCE, ARE ZERO TOLERANCE POLICIES EFFECTIVE?, *supra* note 21, at 48-39.
- 82 Gregory, A., et al., *supra* note 76, at 39.
- 83 BLUM, ROBERT W. & REINHART, P.M., REDUCING THE RISK: CONNECTIONS THAT MAKE A DIFFERENCE IN THE LIVES OF YOUTH 22-24 (2001), available at http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/15/00/cl.pdf.
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- 85 See generally Gregory, A., et al., *supra* note 76.
- 86 *Id.*
- 87 E.g., Private Officer News Network, "School officers train for their duties," (March 30, 2008), available at: <http://privateofficernews.wordpress.com/2008/03/30/school-officers-train-for-their-duties-wwwprivateofficercom/>. See also Mississippi by Agency: Accepted COPS Grants, Community Oriented Policing, U.S. Department of Justice (Jan. 4, 2010), available at <http://www.cops.usdoj.gov/pdf/StateReports2010/ms.pdf>.
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- 89 TEST, PUNISH, AND PUSH-OUT, *supra* note 40, at 15-16; ADVANCEMENT PROJECT & YOUTH UNITED FOR CHANGE, ZERO TOLERANCE IN PHILADELPHIA 12 (2011).
- 90 See Figure A-B and accompanying text, p. 9-10.
- 91 APA ZERO TOLERANCE TASK FORCE, ARE ZERO TOLERANCE POLICIES EFFECTIVE?, *supra* note 20, at 4.
- 92 *Id.*, at 48.
- 93 See, e.g., Figure B and text, p. 10.
- 94 TEST, PUNISH, AND PUSH-OUT, *supra* note 40, at 35.
- 95 DENVER PUBLIC SCHOOLS, SCHOOL BOARD POLICY JK-R, Sections 2-1 and 3-2 (2007), available at http://www.dpsk12.org/pdf/Policy_JK-R_Student_Conduct_Discipline_Procedures_English.pdf.
- 96 PADRES Y JOVENES UNIDOS & ADVANCEMENT PROJECT, BOOKS NOT BARS: A COMMUNITY ANALYSIS OF THE IMPLEMENTATION OF THE 2008 DENVER SCHOOL DISCIPLINE POLICY (December 2011).
- 97 *Id.*
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- 99 Office of Mayor Stephanie Rawlings-Blake Baltimore, "City Schools Graduation Rate Continues to Climb," (Sept. 30, 2011), available at https://www.baltimorecity.gov/OfficeoftheMayor/NewsMedia/tabid/66/ID/1661/City_Schools_Graduation_Rate_Continues_to_Climb.aspx.
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- 101 APA ZERO TOLERANCE TASK FORCE, ARE ZERO TOLERANCE POLICIES EFFECTIVE?, *supra* note 20, at 48-50.
- 102 Johanna Wald & Daniel J. Losen, "Defining and redirecting a school-to-prison pipeline," 99 NEW DIRECTIONS FOR YOUTH DEVELOPMENT 9, 11 (2003).
- 103 See Figure A-B, and accompanying text, p. 9-10; Private Officer News Network, "School officers train for their duties," (March 30, 2008), available at: <http://privateofficernews.wordpress.com/2008/03/30/school-officers-train-for-their-duties-wwwprivateofficercom/>. See also Mississippi by Agency: Accepted COPS Grants, Community Oriented Policing, U.S. Department of Justice (Jan. 4, 2010), available at <http://www.cops.usdoj.gov/pdf/StateReports2010/ms.pdf>.
- 104 See Hagan, J., Shedd, C., & Payne, M. R., *Race, Ethnicity, and Youth Perceptions of Criminal Injustice*, 70 AMERICAN SOCIOLOGICAL REVIEW 381, 382-86 (2005).
- 105 Repeated negative encounters with police officers can result in a deep distrust of law enforcement. In African American communities, the repeated and/or invasive use of investigatory traffic stops, for example, have had the effect of driving a wedge between community members and the police, making it less likely that community members will trust or cooperate with the police. DONALD P. HAIDER-MARKEL, CHARLES EPP, STEVEN MAYNARD-MOODY, CONSTRUCTING DISTRUST: THE CONSEQUENCES OF AFRICAN AMERICAN ENCOUNTERS WITH POLICE (Feb. 2012), available at <http://2012sppconference.blogs.rice.edu/files/2012/02/Haider-Markel-et-al-SPPC-2012.pdf>.
- 106 Research on the use of zero tolerance law enforcement policies has found that using police officers to police low-level troublesome and anti-social behaviors on the streets has the effect of criminalizing new sections of the population, leading to an increase in incarceration, as well as an increase in spending on police. Innes, M., *An iron fist in an iron glove? The zero tolerance policing debate*, 38 THE HOWARD JOURNAL 397-410 (1999). Under the Giuliani administration's zero tolerance regime in New York City, the number of civilian complaints against law enforcement saw a sharp increase, as did legal filings against the police for abusive and brutality. Greene, J.R., *Zero tolerance: A case study of police policies and practices in New York City*, 45 CRIME AND DELINQUENCY 171, 175-78 (1999).
- 107 See U.S. DEPARTMENT OF JUSTICE COMMUNITY RELATIONS SERVICE, PRINCIPLES OF GOOD POLICING: AVOIDING VIOLENCE BETWEEN POLICE AND CITIZENS (Sept. 2003), available at <http://www.justice.gov/crs/pubs/principlesofgoodpolicingfinal092003.pdf>.
- 108 For example, as mentioned previously, *supra* p. 8-9, in Holmes County, a five-year old was sent home from school in the back of a police car for wearing shoes with a few visible red and white symbols in violation of the school's dress code, which required solid black shoes. Interview by Advancement Project of Holmes County parent (July 2011) [Video recording on file with authors]. In Jackson Public Schools, before the school district agreed to abandon the practice in a settlement, school security guards routinely handcuffed students to a pole in the school gymnasium for such minor infractions as not wearing a belt and talking back. Private Officer News Network, "Jackson school security handcuff students to pole as punishment," (April 21, 2011), available at <http://privateofficernews.wordpress.com/2011/04/21/jackson-school-security-handcuff-students-to-pole-as-punishment-www-privateofficer-com/>; Southern Poverty Law Center, "Settlement of SPLC Suit to End Brutal Treatment of Students," (May 25, 2012), available at <http://www.splcenter.org/get-informed/news/settlement-of-splc-suit-to-end-brutal-treatment-of-students>.

109 See, e.g., Fight Crime: Invest in Kids, "Report Release: California Law Enforcement Leaders Support Effective School Discipline Approaches to Cut Suspensions and Reduce Future Crime" (Sept. 11, 2012), available at <http://www.fightcrime.org/SchoolDisciplineReportCA>; Ending the School to Prison Pipeline: Hearing Before the Subcomm. On Constitution, Civil Rights, and Human Rights of the S. Comm. On Judiciary, 112th Cong. (2012) (written testimony of Daniel E. Johnson, Solicitor 5th Judicial Cir. of S. Carolina on behalf of Fight Crime: Invest in Kids).

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111 Marc Mauer & Ron Welch, "A balanced policy needed," *THE CLARION-LEDGER* (Feb. 4, 2007), available at <http://sentencing.nj.gov/downloads/pdf/articles/2007/Mar2007/news20.pdf>.

112 The Parents' Campaign, "K-12 and Mississippi's State Budget" (Oct. 20, 2011), available at <http://www.msparentscampaign.org/mx/hm.asp?id=BudgetFacts>.

113 UNITED STATES CENSUS BUREAU, PUBLIC EDUCATION FINANCES: 2010 8, 5 (June 21, 2012), available at <http://www.census.gov/govs/school/>.

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121 Federal Education Budget Project. New America Foundation. Retrieved August 16, 2012, from <http://febp.newamerica.net/k12/MS>.

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123 LEVIN, H., BELFIELD, C., ET AL., *THE COSTS AND BENEFITS OF AN EXCELLENT EDUCATION FOR AMERICA'S CHILDREN 6-9* (2007), available at http://www.cbcse.org/media/download_gallery/Leeds_Report_Final_Jan2007.pdf.

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125 *Id.* at 14-16.

126 *Id.* at 13-14.

127 *Id.* at 17-18.

128 Alliance for Excellent Education, "Mississippi High Schools," available at http://www.all4ed.org/files/Mississippi_hs.pdf.

129 Right on Crime, "Statement of Principles," (2010), available at <http://www.rightoncrime.com/the-conservative-case-for-reform/statement-of-principles/>.

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132 See generally CHARLES HAMILTON HOUSTON INSTITUTE FOR RACE AND JUSTICE, *FIRST DO NO HARM: HOW EDUCATORS AND POLICE CAN WORK TOGETHER MORE EFFECTIVELY TO PRESERVE SCHOOL SAFETY AND PROTECT VULNERABLE STUDENTS* 12 (March 2010), available at: <http://www.strategiesforyouth.org/pdfs/FINAL%20Do%20No%20Harm%20with%20Bleeds.pdf>. Also, in Philadelphia, the Mental Health Association of Southeastern Pennsylvania sponsored such a training for school police in a 2010 pilot program, bringing together 16 school police officers from various schools in the district for a five-day training. While a more thorough analysis has yet to be completed, trainers reported improved climate between students and school police. See Dafney Tales, "School cops learn new techniques for 'climate change,'" *PHILLY.COM* (Sept. 8, 2010), available at http://articles.philly.com/2010-09-08/news/24974400_1_school-police-school-cops-persistently-dangerous-schools.



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